

lost earnings. However, where the participant does make up the Employee Contributions pursuant to part 1605, the Agency Matching Contributions associated with those belated Employee Contributions (which must be made in accordance with part 1605) will be subject to lost earnings. With respect to such belated Agency Matching Contributions the procedures described in paragraphs (a)(1) through (a)(4) of this section shall apply.

§ 1606.6 Agency delay in paying employee.

Where, as the result of an employing agency error, a participant does not timely receive all or any part of the basic pay to which he or she is entitled, and as a result of that delay in receiving pay all or any part of the Employee Contributions, Agency Automatic (1%) Contributions, or Agency Matching Contributions are not submitted when they would have been had the employing agency error not occurred, all such belated Employee Contributions, Agency Automatic (1%) Contributions, and Agency Matching Contributions shall be subject to lost earnings. The procedures described in paragraphs (a)(1) through (a)(4) of § 1606.5 shall apply to all such belated contributions.

§ 1606.7 Contributions to incorrect investment fund.

(a) Where, as the result of an employing agency error, money was deposited to a participant's TSP account in an incorrect investment fund(s), the erroneous contribution shall be subject to lost earnings. In such cases:

(1) The employing agency must submit a lost earnings record indicating the amount of the contributions submitted to the incorrect investment fund(s), the pay date for which it was submitted, the investment fund(s) to which it would have been deposited had the employing agency error not occurred, and the investment fund(s) to which it was actually deposited. If the employing agency has, prior to January 1, 1991 or in contravention of paragraph (b) of this section, removed the contribution from the incorrect investment fund(s) using a negative adjustment record and redeposited the money to the investment fund(s) in which it

would have been invested had the error not occurred, the employing agency must also indicate on the lost earnings record when these actions were taken.

(2) The TSP recordkeeper shall compute the amount of lost earnings associated with each lost earnings record submitted by the employing agency pursuant to paragraph (a)(1) of this section, and shall also determine the investment fund or funds in which erroneously invested contributions and associated earnings would currently be invested had the error not occurred. In computing lost earnings and determining the appropriate investment fund or funds, the TSP recordkeeper shall take into consideration any interfund transfers that were made effective on or subsequent to the date erroneous contribution was made, and that were made effective prior to the end of the month preceding the month during which the lost earnings record is processed. With respect to the period prior to December 31, 1990, the TSP recordkeeper shall also take into account the investment restrictions that were effective under 5 U.S.C. 8438 prior to the effective date of section 3 of the TSPTAA;

(3) Where the lost earnings computed in accordance with paragraph (a)(2) of this section are positive, the TSP recordkeeper shall charge the amount of lost earnings computed to the appropriate employing agency and shall credit that amount to the account of the participant involved. If the lost earnings computed are negative, the amount computed shall be removed from the participant's account and used to offset TSP administrative expenses;

(4) The TSP recordkeeper shall adjust the participant's account to reflect the investment funds in which the erroneous contributions and associated earnings would currently be invested had the error not occurred, as determined in accordance with paragraph (a)(2) of this section.

(b) The provisions of part 1605 notwithstanding, effective January 1, 1991, where employing agency error had caused money to be deposited to a TSP account in an incorrect investment fund, the employing agency may not remove the erroneously invested

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money from the incorrect investment fund(s) using a negative adjustment record and redeposit the money in the investment fund(s) in which it would have been invested had the error not occurred. Rather, the correction must be accomplished solely through the procedures described in paragraph (a) of this section.

§ 1606.8 Late payroll submissions.

(a) *Payroll submissions received on or after January 1, 1991.* All contributions on payment records contained in a payroll submission received from an employing agency by the TSP Recordkeeper on or after January 1, 1991 and more than 30 days after the pay date associated with the payroll submission (as reported on Form TSP-2, Certification of Transfer of Funds and Journal Voucher), shall be subject to lost earnings, as follows:

(1) The TSP Recordkeeper shall generate a lost earnings record for each payment record contained in the late payroll submission. The lost earnings records generated by the TSP Recordkeeper shall reflect that the contributions on the payment records should have been made on the pay date associated with the payroll submission, that the contributions should have been deposited to the investment funds(s) indicated on the payment records, and that the contributions were actually made on the date the late payroll submission was processed.

(2) The procedures applicable to lost earnings records submitted by employing agencies set forth in paragraphs (a)(2) through (a)(4) of § 1606.5, shall be applied to lost earnings records generated by the TSP Recordkeeper pursuant to paragraph (a)(1) of this section.

(b) *Payroll submissions received before January 1, 1991.* All contributions on payment records contained in a payroll submission received from an employing agency by the TSP Recordkeeper before January 1, 1991 but more than 30 days after the pay date associated with the payroll submission (as reported on Form TSP-2, Certification of Transfer of Funds and Journal Voucher), shall be subject to lost earnings, as follows:

(1) The employing agency shall, pursuant to instructions provided to employing agencies by the Board, submit

to the TSP recordkeeper authorization for lost earnings to be computed on all contributions on the payment records contained in the payroll submission;

(2) The procedures set forth in paragraphs (a)(1) and (a)(2) of this section shall apply.

Subpart C—Lost Earnings Not Attributable to Delayed or Erroneous Contributions

§ 1606.9 Loan allotments.

(a) Loan allotments deducted from a participant's pay but not timely received by the TSP recordkeeper due to employing agency error shall be subject to lost earnings. In such cases:

(1) The employing agency must submit a lost earnings record indicating the amount of the loan allotment, the pay date for which the loan allotment was actually submitted, and the pay date for which the loan allotment should have been submitted;

(2) The TSP recordkeeper shall compute lost earnings on the belated loan allotment using the G Fund rates of return for each month of the calculation;

(3) The amount of lost earnings calculated shall be deposited in the participant's account pro rata among the three investment funds on the basis of the balances of the three investment funds in the participant's account as of the end of the second month preceding the month during which the lost earnings record is processed.

(b) Loan allotments not deducted from a participant's pay due to employing agency error will not be subject to lost earnings.

§ 1606.10 Miscellaneous lost earnings.

Where lost earnings result from employing agency errors not specifically covered by this subpart or subpart B, the employing agency must consult with the Board or TSP Recordkeeper to determine the manner in which the employing agency shall submit lost earnings records or other data necessary to facilitate the payment of lost earnings.